Market Value of such non-cash consideration. In the event such determinations vary by less than ten percent (10%) of the higher determination, such Fair Market Value shall equal the average of the two determinations. If such determinations vary by ten percent (10%) or more of the higher determination, the two appraisers shall promptly designate a third appraiser with similar qualifications. No Stockholder will provide, and the selecting Stockholders will instruct the two appraisers initially selected not to provide, any information to the third appraiser as to the determinations of the two appraisers initially selected, or otherwise influence such third appraiser's determination in any way. The third appraiser shall make a determination of the Fair Market Value within thirty (30) days after its selection. The Fair Market Value shall be equal to the average of the two closest determinations of the three appraisers, or, if the difference between the highest and middle determination is equal to the difference between the middle and lowest determination, then the Fair Market Value will be equal to the middle determination. The Fair Market Value determined pursuant to this Section shall be binding and conclusive on the Transferor and all Offerees. Any appraisal cost incurred under this Section 6.03 shall be borne by the Transferor.

6.04 *Documents Delivered Upon Transfer.* Any proposed transferee of Shares pursuant to any Section of this Article VI or any proposed purchaser of Shares pursuant to Article VII that is not a party to this Agreement, other than any proposed transferee or purchaser of Shares pursuant to the exercise of a remedy by the Agent or the Banks under a Pledge Agreement, shall, prior to such Person's acquisition or subscription of Shares, execute and deliver to the Company (i) an opinion of counsel reasonably satisfactory to the Company to the effect that such Transfer would not be in violation of the Securities Act or Delaware law and would not terminate the Company's status as a close corporation under Section 342 of the General Corporation Law of the State of Delaware; (ii) a written agreement to the effect that (x) the Shares so transferred will continue to be subject to all the restrictions and other provisions of this Agreement and (y) the transferee, except as specified in Article IX, shall be bound by and assume all obligations and restrictions under this Agreement as if such transferee were an original party hereunder and as if all references in this Agreement to "Stockholder" referred to such transferee; and (iii) if the Transferor is still a party to a Pledge Agreement, a written agreement having substantially the same terms as the Pledge Agreement of the Transferor pursuant to which the transferee agrees to pledge to the Banks the same percentage of the Shares transferred to such transferee as such Transferor has pledged under its Pledge Agreement.

6.05 *Restrictions on Voting Stock Ownership.* Unless Shares have been acquired in compliance with the provisions of Article VI or VII, in no event shall (i) TCID or its Affiliates collectively hold in excess of fifty percent (50%) of the Capital Stock or (ii) either Cox or its Affiliates or NewChannels or its Affiliates hold in excess of twenty-five percent (25%) of the Capital Stock.

6.06 *Legend.* Each stock certificate representing Shares now or hereafter issued to a Stockholder shall bear the following legend:

THE SHARES OF STOCK OF DISCOVERY COMMUNICATIONS, INC. REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. THIS STOCK HAS BEEN ACQUIRED FOR INVESTMENT AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT FOR THIS STOCK UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR AN OPINION OF COUNSEL SATISFACTORY TO THE CORPORATION THAT REGISTRATION IS NOT REQUIRED UNDER SAID ACT.

THE VOLUNTARY OR INVOLUNTARY ENCUMBERING, TRANSFER OR OTHER DISPOSITION (INCLUDING WITHOUT LIMITATION, ANY DISPOSITION PURSUANT TO THE LAWS OF BANKRUPTCY, INTESTACY, DESCENT AND DISTRIBUTION OR SUCCESSION) TO THE EXTENT PERMITTED BY LAW, OF THE SHARES OF STOCK EVIDENCED BY THIS CERTIFICATE IS RESTRICTED UNDER THE TERMS OF A SHAREHOLDERS AGREEMENT (THE "SHAREHOLDERS AGREEMENT") BY AND AMONG DISCOVERY COMMUNICATIONS, INC., JOHN HENDRICKS, COX DISCOVERY, INC., NEWCHANNELS TDC INVESTMENTS, INC., TCI CABLE EDUCATION, INC. AND, FOR LIMITED PURPOSES ONLY, DISCOVERY PROGRAMMING INVESTMENT, INC., A COPY OF WHICH AGREEMENT IS ON FILE AT THE PRINCIPAL OFFICE OF THE CORPORATION. THE SHAREHOLDERS AGREEMENT ALSO PROVIDES FOR PREEMPTIVE RIGHTS, AS WELL AS OTHER MATTERS. UPON WRITTEN REQUEST OF ANY SHAREHOLDER OF THE CORPORATION, THE CORPORATION SHALL FURNISH, WITHOUT CHARGE TO SUCH SHAREHOLDER, A COPY OF SUCH SHAREHOLDERS AGREEMENT.

THE CORPORATION IS A CLOSE CORPORATION UNDER THE GENERAL CORPORATION LAW OF THE STATE OF DELAWARE AND THUS, ITS STOCK MAY NOT BE HELD OF RECORD BY MORE THAN 30 PERSONS. PURSUANT TO ITS CERTIFICATE OF INCORPORATION, THE BUSINESS AND AFFAIRS OF THE CORPORATION ARE MANAGED BY THE SHAREHOLDERS OF THE CORPORATION RATHER THAN BY A BOARD OF DIRECTORS.

*6.07 Special Provisions relating to Pledge Agreements.*

(a) Each Stockholder hereby agrees that neither such Stockholder nor its Affiliates will make a Third Party Offer (which for purposes of this Section 6.07 only, shall have the meaning assigned to such term in each Pledge Agreement) to The Toronto-Dominion Bank Trust Company (the "Agent") or The Toronto-Dominion Bank and Crestar Bank (collectively including any assignee thereof, the "Banks") without the prior written consent of all the MSOs.

(b) Section 12 of each Pledge Agreement provides that under certain circumstances the Agent must offer the MSOs either the right to match any Third Party Offer to purchase the Stock (as defined in each Pledge Agreement) or to satisfy the Obligations (as defined in each Pledge Agreement). Section 9 of each Pledge Agreement provides that the Agent must give the MSOs ten (10) Business Days (as defined in each Pledge Agreement) written notice (the "Sale Notice") prior to selling, transferring or otherwise disposing of the Stock (including a transfer of the Stock to the Agent or the Banks upon a foreclosure or exercise of another remedy). In the event that the Agent gives to any MSO a Sale Notice pursuant to such Section 9, the MSOs hereby agree as follows:

(i) Each MSO receiving a Sale Notice shall immediately notify each other MSO of the first MSO's receipt of such Sale Notice and shall transmit to each other MSO via facsimile a copy of such Sale Notice.

(ii) upon receipt of the Sale Notice, each MSO may elect to satisfy all of its pro rata share of the Obligations. Each such MSO (an "Accepting MSO") shall exercise such election by delivering written notice of such election to the other MSOs within two Business Days of the date of the Sale Notice. For purposes of this Section 6.07(b)(ii), each MSO's pro rata share shall be the amount of the Obligations multiplied by a fraction, the numerator of which shall be the aggregate number of shares of Capital Stock held by such Accepting MSO (including shares pledged under such Accepting MSO's Pledge Agreement) and the denominator of which shall be the aggregate number of shares of Capital Stock held by all the MSOs (including shares pledged under all Pledge Agreements), both as of the time immediately prior to the date of the Sale Notice.

(iii) In the event an MSO (the "Declining MSO") fails to deliver to the other MSOs a notice pursuant to Section 6.07(b)(ii), the Accepting MSOs may elect to satisfy such Declining MSO's pro rata share of the Obligations (the "Remaining Obligations"), in the following priority:

(A) if Cox is the Declining MSO, NewChannels shall have an initial right to elect to satisfy all the Remaining Obligations;

(B) if NewChannels is the Declining MSO, Cox shall have an initial right to elect to satisfy all the Remaining Obligations; and

(C) in any case other than (A) or (B) each Accepting MSO may elect to satisfy its pro rata share of the Remaining Obligations. For purposes of this Section 6.07(b)(iii)(C) each Accepting MSO's pro rata share of the Remaining Obligations shall be the amount of all the Remaining Obligations multiplied by a fraction, the numerator of which shall be the aggregate number of shares of Capital Stock held by such Accepting MSO (including shares pledged under such Accepting MSO's Pledge Agreement) and the denominator of which shall be the aggregate number of shares of Capital Stock held by all the Accepting MSOs (including shares pledged under all Pledge Agreements). Each such MSO with a right to commit under (A), (B) or (C) above shall exercise such election by delivering written notice of such election to the other MSOs within four Business Days of the date of the Sale Notice.

(iv) In the event that subsequent to the fourth Business Day after the Sale Notice, there remains any portion of the Obligations which the MSOs have not committed to satisfy, each Accepting MSO which has committed to satisfy its pro rata share of the Obligations and the Remaining Obligations in accordance with both Section 6.07(b)(ii) and Section 6.07(b)(iii), may elect to commit to satisfy such portion of the Remaining Obligations. Any MSO with a right to commit under this Section 6.07(b)(iv) shall exercise such election by delivering written notice of such election to the other MSOs within six Business Days after the date of the Sale Notice.

(v) Provided one or more MSOs have in the aggregate committed prior to the seventh Business Day after the date of the Sale Notice to satisfy the entire amount of the Obligations, each MSO which has committed to satisfy any portion of the Obligations shall on the eighth Business Day after the date of the Sale Notice transmit via wire transfer to the Agent the portion of the Obligations such MSO has committed to satisfy. In the event any MSO which committed to satisfy any portion of the Obligations under this Section 6.07(b) fails to perform such commitment by the close of business on the eighth Business Day after the Sale Notice (a "Defaulting MSO"), the Accepting MSOs other than the Defaulting MSO may elect to perform the Defaulting MSO's commitment by transmitting via wire transfer the unpaid portion of the Obligations on the tenth Business Day after the date of the Sale Notice. If more than one Accepting MSO elects to satisfy the Defaulting MSO's commitment, each such Accepting MSO may elect to satisfy its pro rata share of the Defaulting MSO's commitment. For purposes of this Section 6.07(b)(v) each such electing Accepting MSO's pro rata share of the Defaulting MSO's commitment shall be the amount of the Defaulting MSO's commitment multiplied by a fraction, the numerator of which shall be the aggregate number of shares of Capital Stock held by such electing Accepting MSO (including shares pledged under such Accepting MSO's Pledge Agreement) and the denominator of which shall be the aggregate number of shares of Capital Stock held by all such electing Accepting MSOs (including shares pledged under all Pledge Agreements). In the event that one or more of the MSOs have not in the aggregate committed prior to the ninth Business Day after the date of the Sale Notice to satisfy all the Obligations, none of the MSOs shall have any commitment to satisfy any portion of the Obligations.

(vi) In the event the MSOs satisfy the Obligations prior to the Agent or any of the Banks exercising any right under any of the Pledge Agreements to foreclose on, sell, convey or otherwise obtain or transfer title to the Stock and in the further event that any MSO did not pay its pro rata share of the Obligations under Section 6.07(b)(ii) or defaulted under Section 6.07(b)(v), such Declining MSO or Defaulting MSO shall simultaneously with the satisfaction of the Obligations transfer to each other MSO which paid more than its pro rata share of the Obligations determined pursuant to Section 6.07(b)(ii) a number of such Declining or Defaulting MSO's shares of Capital Stock determined with respect to each such other MSO paying more than its pro rata share of the Obligations by multiplying the number of shares of Capital Stock owned by such Declining or Defaulting MSO (including shares of Capital Stock pledged pursuant to such MSO's Pledge Agreement) by a fraction, the numerator of which shall be the amount of the Obligations paid by such MSO in excess of such MSO's pro rata share of the Obligations determined pursuant to Section 6.07(b)(ii) and the denominator of which shall be the aggregate amount of all Obligations paid by the MSOs which are not Declining or Defaulting MSOs in excess of such MSOs' pro rata share of the Obligations determined pursuant to Section 6.07(b)(ii). The shares of Capital Stock transferred by such Declining or Defaulting MSO shall be transferred free and clear of any liens or encumbrances.

(vii) Purchases of a Declining or Defaulting MSO's Stock shall be deemed made pursuant to Article VI hereof, and, therefore, the MSOs purchasing such Declining or Defaulting MSO's Stock shall not be subject to the restrictions on aggregate voting power contained in Section 6.05 hereof.

(c) This Section 6.07 shall terminate upon the termination of the last of the Pledge Agreements.

## ARTICLE VII
## PREEMPTIVE RIGHTS

(a) The Company shall give to each Stockholder written notice of the intention of the Company to issue or sell any equity securities of the Company or any Company Convertible Securities (the "Securities"). Such notice shall set forth the terms of such proposed issuance or sale, including the price at which the Securities will be issued or sold (the "Stated Price"), and shall be given at least thirty (30) days prior to the issuance or sale of such Securities. Each Stockholder may elect to purchase up to that percentage of the Securities to be sold or issued equal to such Stockholder's percentage of the total number of shares of Capital Stock outstanding immediately prior to such issuance or sale. A Stockholder may exercise such election by giving written notice thereof to the Company before the end of the tenth business day after receipt by such Stockholder of the notice from the Company. Such Stockholder's notice shall state the number of Securities to be purchased pursuant to such election. If any Stockholder elects not to purchase all of the Securities to which such Stockholder is entitled hereunder, the Company shall notify the Stockholders of the availability of such excess Securities (the "Excess Securities") within ten (10) days after the expiration of the above election period. Each Stockholder shall have the right to elect to purchase such Excess Securities by giving notice of its election within ten (10) days after the receipt of the notice from the Company. If the Stockholders elect to purchase hereunder an amount of Securities in excess of the number of Excess Securities, such Excess Securities shall be allocated among the electing Stockholders on a pro rata basis based upon the proportion that the number of Shares owned by each electing Stockholder bears to the number of Shares owned collectively by all the electing Stockholders.

(b) If a Stockholder exercises its right of election pursuant to clause (a) above, the closing of such purchase and sale shall take place within ten (10) days after the last Stockholder gives notice of its election. At the closing, the Company shall deliver to any electing Stockholder or an Affiliate thereof (provided such Affiliate has complied with the provisions of Section 6.04), if applicable, the certificate or certificates representing the number of Securities set forth in such Stockholder's notice of election against payment by the Stockholder or an Affiliate thereof, if applicable, by cash or certified or bank cashier's check or by wire or interbank transfer of funds of the Stated Price.

(c) If the Stockholders do not elect pursuant to clause (a) above to subscribe for all the Securities proposed to be issued or sold by the Company, the Company shall have the right to issue and sell any such Excess Securities, provided that any purchaser thereof becomes a party to this Agreement.

## ARTICLE VIII
## TERMINATION OF CLOSE CORPORATION STATUS

8.01 *Cure Obligation; Indemnification.* If any Stockholder (the "Defaulting Stockholder") causes an event that results in the failure of the Company to qualify as a close corporation under Section 342 of the General Corporation Law of the State of Delaware, each of the Company, the Defaulting Stockholder, and the other Stockholders shall use its best efforts (i) to correct the situation that threatens the Company's status as a close corporation and (ii) to satisfy the requirements of Section 348 of the General Corporation Law of the State of Delaware, or any successor provision thereto, so as to preserve the Company's status as a close corporation. The Defaulting Stockholder shall indemnify the Company and the other Stockholders for all damages, costs and expenses, including reasonable legal fees and expenses, incurred by the Company and the other Stockholders in order to comply with this Article.

8.02 *Loss of Close Corporation Status.* If the Company loses voluntarily or involuntarily its close corporation status under the General Corporation Law of the State of Delaware, each Stockholder hereby agrees to cause the amendment of the Certificate of Incorporation of the Company and the By-Laws of the Company and each party to this Agreement hereby agrees to cause the amendment of this Agreement and the execution or amendment of any and all other agreements in order to provide each party hereto with substantially the same rights and obligations with respect to any matter covered by this Agreement as granted to such party in this Agreement.

8.03 *Stockholder Vote on Close Corporation Status.* In the event that the holders of eighty percent (80%) of the issued and outstanding shares of the Company entitled to vote thereon determine to take any action referred to in Section 3.01(l) hereof or otherwise determine to terminate the Company's close corporation status under Section 342 of the General Corporation Law of the State of Delaware, then the Stockholder or Stockholders voting in favor of such termination or other action shall not be liable as a "Defaulting Stockholder" under Section 8.01 hereof and this Agreement shall be appropriately amended pursuant to Section 8.02 hereof to reflect the fact that the Company is no longer a "close corporation." Notwithstanding the provisions of Section 10.03 hereof, the amendments to this Agreement pursuant to Section 8.02 or 8.03 necessary to reflect the termination of the Company's "close corporation" status shall be effective upon the affirmative vote of eighty percent (80%) of the outstanding shares of the Company entitled to vote thereon.

## ARTICLE IX
## ADDITIONAL PARTIES

No party hereto may assign its obligations, rights or interests herein without the written consent of all the MSOs; provided any MSO may assign its interest under this Agreement to any Affiliate thereof provided such Affiliate assumes all of such MSO's liabilities and obligations hereunder. Any purchaser or transferee from any party hereto of Shares, other than a purchaser or transferee of Shares pursuant to the exercise of a remedy by the Agent or the Banks under a Pledge Agreement which purchaser or transferee is not a party hereto, shall be obligated to assume all obligations and liabilities hereunder (other than the carriage commitments under Section 4.02 which shall remain the obligation of each MSO on the terms and conditions set forth in Section 4.02) and shall be entitled to all the rights hereunder of such party with respect to such purchased Shares.

## ARTICLE X
## MISCELLANEOUS

10.01 *Further Assurances.* From time to time after the date hereof, the parties will, at their expense, and without further consideration, execute and deliver such other documents and instruments and take all such other actions as are reasonably requested to effect this Agreement. Without limiting the generality of the foregoing, the parties agree that the By-Laws and the Certificate of Incorporation of the Company shall contain such provisions as shall be consistent with and permit the effectuation of the provisions of this Agreement and further agree to take all such action as may be required from time to time to adopt or amend the By-Laws or Certificate of Incorporation of the Company accordingly.

10.02 *Parties in Interest.* All covenants, agreements, representations, warranties and undertakings in this Agreement made by and on behalf of any of the parties hereto other than the covenants, agreements and undertakings set forth in Section 4.02 shall bind and inure to the benefit of their respective successors, assigns and personal representatives, and in the case of Hendricks, to Hendricks' estate. The obligations of each MSO under Section 4.02 shall remain each such MSO's obligation on the terms and conditions set forth in Section 4.02.

10.03 *Amendments.* Except with respect to those amendments required pursuant to Section 8.02 or 8.03, this Agreement may only be amended or modified by the unanimous decision of the MSOs, provided that no such amendment which adversely affects Hendricks' rights or Obligations shall be effective without Hendricks' consent. Upon the adoption of any amendment or modification hereto, the MSOs shall notify Hendricks thereof and unless Hendricks shall have objected to any such amendment or modification on the basis that it adversely affects his rights or obligations within ten (10) days after Hendricks' receipt of such notice, such amendment shall become effective.

10.04 *Governing Law.* This Agreement, together with the rights and obligations of the parties hereunder, shall be governed by, construed and enforced in accordance with the internal laws of the State of Delaware without reference to principles of conflict of laws.

10.05 *Severability.* If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement shall not in any way be affected or impaired thereby, and the application of such provision to other Persons or circumstances shall not be affected thereby and shall be enforced against such Person as well as all other Persons to the greatest extent permitted by law. Upon the invalidity or unenforceability of any provision of this Agreement, the MSOs shall enter into good faith negotiations in an effort to reach mutual agreement upon one or more new replacement provisions addressing the subject matter of the provision rendered invalid or unenforceable, provided no such new replacement provision shall adversely affect Hendricks' rights or obligations; and further provided, the failure to conclude such negotiations or to agree upon such new replacement provisions shall not be deemed a breach of this Agreement or otherwise give rise to any further rights or obligations of the parties with regard to any such invalid or unenforceable provision.

10.06 *Notices.* All notices and other communications pursuant to this Agreement shall be in writing and shall be deemed to have been duly given to a party when delivered in person to such party (or, in the case of a corporate party, to the President or any Vice President thereof), or when sent prepaid by recognized overnight courier, on the date sent with telephonic or telex confirmation to such party on the date sent, or three (3) business days after such notice is enclosed in a properly sealed envelope, certified or registered, and deposited (postage and certification or registration prepaid) in a post office or collection facility regularly maintained by the United States Postal Service and sent to the address set forth below the party's signature hereto (or to such other address as any party shall have last designated by notice to others).

10.07 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.08 *Captions.* The captions and headings of this Agreement are for convenience only and are not to be construed as defining or limiting the scope or intent of any of the provisions hereof.

10.09 *Complete Agreement.* This document embodies the complete agreement and understanding among the parties hereto with respect to the subject matter hereof. This document supersedes and preempts any prior understandings, agreements, or representations by or among the parties, written or oral, which may have related to the subject matter hereof. In the event of any inconsistency or conflict between the provisions of this Agreement and any other agreement between the Company and a Stockholder dealing with the subject matter of this Agreement which has not been terminated pursuant to Section 10.13, the provisions of this Agreement shall govern and supersede the inconsistent or conflicting provisions of such other agreement.

10.10 *Remedies.* The parties agree and acknowledge that money damages may not be an adequate remedy for breach of any of the provisions of this Agreement, and that each such party shall be entitled, in its sole discretion, to apply to any court of competent jurisdiction for specific performance or injunctive relief in order to enforce or prevent any violation of the provisions of this Agreement, in addition to its remedies at law.

10.11 *Company Action Regarding Shares.* The Company shall not transfer on its books or take any action with respect to any Shares disposed of contrary to, or in violation of, this Agreement or that would terminate the Company's status as a close corporation under the General Corporation Law of the State of Delaware, and any transferee thereof shall neither be deemed to be the record or beneficial owner of any such Shares nor to be entitled to any of the rights or privileges thereof. Notwithstanding anything to the contrary in this Section 10.11, the Company shall be required to transfer on its books any transfer of Shares resulting from the exercise by the Agent or the Banks of a remedy under a Pledge Agreement.

10.12 *Effective Date, Termination.* This Agreement shall become effective on the date hereof and shall continue in full force and effect until terminated by the unanimous decision of the MSOs. If any Stockholder or other Person subject to this Agreement shall no longer own any Shares, such Stockholder or other Person shall thereupon cease to have any rights or obligations under this Agreement (other than the carriage commitments under Section 4.02 which shall remain the obligation of each MSO and United on the terms and conditions set forth in Section 4.02), except to the extent that it has violated any of the terms or provisions hereof and except as otherwise provided herein.

10.13 *Termination of Other Agreements.* This Agreement supersedes and terminates the Amended and Restated Memorandum of Agreement, dated December 31, 1990, as amended, by and among the Company and its stockholders, the Shareholders Agreement, dated June 25, 1986 by and among the Company and certain of its stockholders, the Memorandum of Agreement, dated October 26, 1988, and the Amended and Restated Memorandum of Agreement, dated November 1, 1988.

10.14 *Confidentiality.* Except as required by law or government regulation and as reasonably necessary for the solicitation by any Stockholder in good faith of bona fide offers for all or a portion of such Stockholder's Shares pursuant to Section 6.02(a), (i) none of the parties hereto shall announce the existence or terms of this Agreement or any transaction contemplated hereby without the consent of the other parties hereto, and (ii) all public announcements by the parties concerning this Agreement or any transaction contemplated hereby shall be reasonably satisfactory to and previously approved by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

DISCOVERY COMMUNICATIONS, INC.

By: /s/ JOHN S. HENDRICKS

Name: John S. Hendricks
Title: Chairman and Chief Executive Officer

7700 Wisconsin Avenue
Bethesda, Maryland 20814-3522
Attention: Mr. John S. Hendricks,
Chairman and Chief Executive Officer

JOHN S. HENDRICKS

/s/ JOHN S. HENDRIKS

7700 Wisconsin Avenue
Bethesda, Maryland 20814-3522

COX DISCOVERY, INC.

By: /s/ AJIT DALVI

Name: Ajit Dalvi
Title: Vice President

1400 Lake Hearn Drive
Atlanta, GA 30319
Attention: Ajit Dalvi
VicePresident

NEWCHANNELS TDC INVESTMENTS, INC.

By: /s/ ROBERT MIRON

Name: Robert Miron
Title: President

5015 Campuswood Drive
East Syracuse, NY 13057
Attention: Robert Miron, President

TCI CABLE EDUCATION, INC.

By: /s/ FRED A. VIERRA

Name: Fred A. Vierra
Title: Executive Vice President

5619 DTC Parkway
Englewood, Colorado 80111
Attention: Fred A. Vierra

Accepted and agreed with respect only to Section 4.02 of this Agreement:

DISCOVERY PROGRAMMING INVESTMENT, INC.

By: /s/ FRED A. VIERRA

Name: Fred A. Vierra
Title: Executive Vice President

5619 DTC Parkway
Englewood, Colorado 80111
Attention: Fred A. Vierra

**SCHEDULE I**

**Capital Stock**

| | Number of Issued Shares of Capital Stock | Ownership Percentage |
|---|---|---|
| Cox | 12,600 | 24.6484 |
| NewChannels | 12,600 | 24.6484 |
| TCID | 25,200 | 49.2967 |
| Hendricks | 719 | 1.4065 |
| **TOTAL** | 51,119 | 100.0000 |

QuickLinks

Exhibit 10.1

*** Slip Sheet ***

JONES DAY

51 LOUISIANA AVENUE, N.W. • WASHINGTON, D.C. 20001-2113
TELEPHONE: 202-879-3939 • FACSIMILE: 202-626-1700

Direct Number: (202)879-4688
lcoverton@jonesday.com

CONFIDENTIAL

March 14, 2007

VIA EMAIL

Yvette Tarlov, Esq.
U.S. Department of Justice
Antitrust Division
Telecommunications and Media Section
1401 H Street, N.W., 8th Floor
Washington, D.C. 20530

Re: Liberty Media Corporation/DIRECTV

Dear Yvette:

This is in response to your request for additional information regarding the FCC treatment of, and requirements for, the insulation of officers and directors. [redacted]

[redacted]

[redacted]

Very truly yours,

Leslie

Leslie C. Overton

Enclosure

cc: Charles Tanabe, Esq.
Nancy Goodman, Esq.
Kathryn Fenton, Esq.

WAI-2818493v1
800880 007016

Pike & Fischer

Communications Regulation

Call 1-800-255-8131

Email Customer Care

**Telemundo Group, Inc., Debtor in Possession (Transferor) and Telemundo Group, Inc. (Transferee) For Transfer of Control of Telemundo of Puerto Rico, Inc., Licensee of WKAQ-TV, San Juan, P.R.; W09AT, Fajardo, P.R.; W32AJ, Utuado, P.R.; W68BU, Adjuntas, P.R.; Telemundo of Florida, Inc., Licensee of WSCV(TV), Fort Lauderdale, FL; Telemundo of Northern California, Inc., Licensee of KSTS(TV), San Jose, CA; K15CU, Salinas, CA; K52CK, Stockton/Lodi, CA; K47DQ, Sacramento, CA; K27EI, Santa Maria, CA; K39DH, Ogden, UT; K48EJ, Salt Lake City, UT; W32AY, Boston, MA; K61FI, Modesto, CA; Telemundo of Galveston-Houston, Inc., Licensee or Permittee of KTMD(TV), Galveston, TX; K60EE, Odessa, TX; K49CD, Odessa, TX; K40DX, Abilene, TX; K36DV, Amarillo, TX; Telemundo of San Antonio, Inc., Licensee of KVDA(TV), San Antonio, TX; Telemundo of Austin, Inc., Licensee of K11SF, Austin, TX; Telemundo of Colorado, Inc., Licensee of K49CJ, Colorado Springs, CO; Telemundo of Santa Fe, Inc., Licensee of K52BS, Santa Fe, NM; WNJU License Corporation, Licensee of WNJU, Linden, NJ; Estrella License Corporation, Licensee of KVEA(TV), Corona, CA; K57CD, San Diego, CA**

**77 RR 2d 308, 10 FCC Rcd 1104, 1994 FCC LEXIS 6672**

HIDE DIGESTS

**[CA.310(B)(2), 73.3540, 73.3555(C)(3)]**

A twelve-month waiver of the duopoly rule was granted to enable a party who would become an attributable shareholder in a Hispanic broadcast TV network licensee under the licensee's Chapter 11 reorganization plan to divest his interests in a TV station with a Grade B contour overlapping that of one of the reorganized licensee's stations. Although the overlap of the Grade B contours of the two TV stations covered 7,007 square miles inhabited by 1.8 million people, and thus greatly exceeded the magnitude of overlap that exists in most duopoly waiver cases, the size of the proposed overlap was of less concern than it would have been if the waiver were permanent. Here, furtherance of the reorganization plan and the vitalization of the reorganized licensee would be compatible with the diversity and economic competition policies the duopoly rule is designed to promote. Equally important, grant of the temporary waiver would promote the Commission's goal of advancing diversity via increased minority ownership. Finally, since the stations were located in different ADIs, the overlap area was served by at least 28 TV stations, and the potential shareholder was required to recuse himself from any participation in the management of the reorganized licensee's station until after the other station had been sold, the temporary waiver would not disserve the goals of diversity and economic competition. **Telemundo Group, Inc., 77 RR 2d 308 [1994].**

**[73.3555(G), 73.3540, CA.310(B)(2)]**

Cross-interest concerns did not militate against approval of the transfer of control of seven TV stations and 19 LPTV stations from a bankrupt licensee to its restructured entity following reorganization under Chapter 11 of the Bankruptcy Code. Although one of the licensee's attributable shareholders following reorganization held a non-voting interest in the permittee of a TV station in the same ADI as one of the reorganized licensee's stations, the shareholder's interests were unlikely to diminish arm's length competition or diversity, the governing concerns of the cross-interest policy. First, the level of the shareholder's cross interests in the two stations was consistent with that permitted in past cases. Second, both stations were located in the Los Angeles ADI, a highly competitive market sustaining 21 full-service TV stations and 79 radio stations, all owned by 80 separate "voices." Moreover, one station broadcast Spanish language network TV, while the other planned to operate as an independent English language station, and the two would not compete directly for viewers or advertisers in the market. Third, the transfer applicants pledged that the two stations would continue to operate separately in all respects. They also stated that they had executed a contract for the sale of the unbuilt station; and that an application for assignment of its permit would soon be filed. **Telemundo Group, Inc., 77 RR 2d 308 [1994].**

**[CA.310(B)(2), 73.3540, 73.3555(H)]**

To facilitate the transfer of control of seven TV stations and 19 LPTV stations from a bankrupt licensee to its restructured entity following reorganization under Chapter 11 of the Bankruptcy Code, an individual's attributable interests in the reorganized applicant, which ordinarily would have caused the applicant to violate the twelve-station rule and duopoly rule, were deemed nonattributable. The individual served on the board of directors of the parent company of eleven TV licensees, one of which had a Grade B contour that overlapped with that of one of the reorganized licensee's stations. He was connected to the reorganized licensee through his involvement and ownership interests in investment companies that became shareholders of the licensee under the reorganization plan. The individual pledged to recuse himself from any matters pertaining to the licensee, and the mechanisms to be implemented by the investment companies would insure that his recusal would be *bona fideTelemundo Group, Inc.*, **77 RR 2d 308 [1994].**

**(December 23, 1994)**

**FCC 94-341**

**File Nos. BTCCT-940922KI; BTCTTV-940822KJ; BTCTT-940822KK; BTCTT-940822KL; BTCTT-940822KM; BTCCT-940822KN; BTCTTL-940822KO; BTCTTL-940822KP; BTCTTL-940822KQ; BTCTTL-940822KR; BTCTT-940822KS; BTCTTL-940822KT; BTCTTL-940822KU; BTCTTL-940822KV; BTCCT-940822KX; BTCTTL-940822KY; BTCTTL-940822KZ; BTCTTL-940822LA; BTCTTL-940822LB; BTCCT-940822LE; BTCTVL-940822LF; BTCTTL-940822LG; BTCTTV-940822LH; BTCCT-940822KW; BTCCT-940822LC; BTCTTL-940822LD**

**Released: December 23, 1994**

Adopted: December 23, 1994

**MEMORANDUM OPINION AND ORDER**

**By the Commission:**

1. The Commission has before it for consideration the unopposed applications for transfer of control of the above-captioned licensees from Telemundo Group, Inc., Debtor in Possession ("Debtor") to Telemundo Group, Inc. ("Reorganized Telemundo"), the entity set to emerge from federal bankruptcy protection pursuant to a Chapter 11 plan of reorganization confirmed by the United States Bankruptcy Court for the Southern District of New York. *See Order Pursuant to Section 1129 of the Bankruptcy Code Confirming the Debtor's Second Amended Chapter 11 Plan of Reorganization* (*Bankruptcy Order*), Case No. 93-B-42967 (Bankr SD NY July 20, 1994). Because principals or affiliates of some of the proposed attributable stockholders of Reorganized Telemundo hold conflicting attributable interests in other broadcast stations, as well as a nonattributable interest in a television station in the same market as a Reorganized Telemundo television station, the applicants also request relief from the Commission's multiple ownership rules and cross-interest policy.

**Background**

2. Debtor, a Delaware corporation, owns Telemundo, one of two major Hispanic broadcast television networks serving the United States. Through its seven full power television stations and 19 low power television and translator stations, according to Debtor, Telemundo serves more than 50 markets in the United States and Puerto Rico, reaching more than 85 percent of all Hispanic households in the country. Additionally, Debtor produces Spanish-language programming, making available to its affiliates and owned and operated stations approximately 130 hours per week of such programming.

3. For nearly three years, according to the applicants, Debtor has failed to make principal or interest payments on its outstanding debt. In August 1993, Telemundo petitioned for Chapter 11 bankruptcy protection and thereafter sought Commission approval for an involuntary transfer of control of its licensee subsidiaries to Debtor. *See* FCC File Nos. BTCTTV/BTCTT/BTCTTL-940810KF through KZ (granting transfer of control of the licensee subsidiaries from Telemundo Group, Inc. to Debtor). A second amended plan of reorganization (the "Plan") structured by Debtor and accepted by those creditors entitled to vote thereon was confirmed by the bankruptcy court on July 20, 1994. *See Bankruptcy Order, supra. Under the Plan, the*

*claims of certain creditors are to be discharged in exchange for, among other things, an equity stake in Reorganized Telemundo.*

4. Upon consummation of the Plan, which is subject to Commission approval, the capital stock of Reorganized Telemundo will consist entirely of voting common stock, whose holders will be: TLMD Partners II, L.L.C. (15.5%); Reliance Insurance Company (10%); Bastion Capital Fund, L.P. (up to approximately 16%); Leon Black (approximately 2.8%);[1] and various rights holders and other creditors, none of which individually will hold an attributable 5% interest (approximately 50%). The composition of Reorganized Telemundo's initial nine-member board of directors results from negotiations among Debtor, its current majority stockholder, and the junior and senior creditors.[2]

5. With four exceptions, the corporate restructuring and the involvement of parties to this application are consistent with the Commission's ownership rules and policies, as well as with the ~~Communications~~ Communications Act. Those exceptions are as discussed below.

**Permanent waiver of the one-to-a-market rule**

6. Daniel D. Villanueva is a co-trustee of the Daniel Villanueva Living Trust, which is the sole stockholder of one of the two general partners of Bastion Partners which, in turn, serves as the sole general partner of Bastion Capital Fund, L.P. ("Bastion Capital"). The potentially 16 percent of Telemundo stock owned by Bastion Capital is, therefore, attributable to Mr. Villanueva, who wholly owns Buena Ventura Communications, Inc., the licensee of KCTQ(AM), Thousand Oaks, California. Because the Grade A signal of Debtor's KVEA(TV), Corona, California, encompasses the entire community of Thousand Oaks, Villanueva's ownership of the radio station and his attributable interest in the television station would be inconsistent with the one-to-a-market rule. That rule bars common ownership of television and radio stations in the same market. *See* 47 CFR 73.3555(c).

7. In *Second Report and Order* in MM Docket No. 87-7, 4 FCC Rcd 1741, 1751, *[65 RR 2d 1589] reconsidered in part*, 4 FCC Rcd 6489 *[66 RR 2d 1115]* (1989), the Commission concluded that it will "look favorably" upon, and will be "predisposed to grant," waiver requests involving radio and television station combinations in the top 25 markets, as defined by Arbitron Ratings Company, where at least 30 separately owned, operated and controlled broadcast licensees, or "voices," will remain after the proposed combination. In calculating the number of broadcast stations in a particular market, we include all commercial and noncommercial full-power television station licensees in the relevant ADI and all operating AM and FM radio station licensees in the relevant television metropolitan market. *Id.* The member of "voices" in a given market is evaluated in accordance with the attribution provisions of our local ownership rules, in which persons have a "cognizable" interest in a broadcast station if they serve as an officer, director, partner, or owner of at least five percent of the voting stock of the licensee. *Id.*; *see also id.* at 1759 n.87.

8. In support of its waiver request, Debtor notes that Los Angeles, the ADI within which each station is located, is the second largest market in the country, as reported in *Broadcasting & Cable Yearbook 1994*. That market sustains 21 full-service television stations and 79 AM and FM radio stations. Of these broadcast stations, Debtor's exhibit indicates, at least 80 will be separately owned, operated and controlled after consummation of the Plan. Accordingly, Debtor contends, its waiver request for the Los Angeles market satisfies the "top 25 markets/30 voices" presumptive waiver standard set forth in *Second Report and Order*.

9. Having reviewed the showing submitted by Debtor, we find that Mr. Villanueva's common ownership interests will not result in fewer than 30 separately owned, operated and controlled broadcast stations in Los Angeles, the second largest market. Thus, Debtor has provided the necessary documentation to meet the "top 25 markets/30 voices" standard with regard to the KVEA(TV)-KCTQ(AM) combination.[3] We conclude, therefore, that grant of the waiver permitting Mr. Villanueva to hold interests in both stations is in the public interest.

**Temporary waiver of the duopoly rule**

10. Mr. Villanueva also wholly owns Villanueva Media, Inc., which holds a 20% general partnership and 55% limited partnership interest in KSMS-TV, L.P., the licensee of KSMS-TV, Channel 67, Monterey,

California. Because the Grade A contour of KSMS-TV overlaps with that of Reorganized Telemundo's KSTS (TV), Channel 48, San Jose, California, Mr. Villanueva's attributable interests in these stations would violate the Commission's duopoly rule, Section 73.3555(b). The duopoly rule prohibits common ownership of television stations whose Grade B contours overlap. Accordingly, in its application, Debtor requests a temporary, twelve-month waiver of the duopoly rule "to permit an orderly disposition" of KSMS-TV. To that end, Debtor notes in its November 2, 1994 amendment that an application for the assignment of KSMS-TV to California Heartland Broadcasting, Inc. was filed with the Commission on September 23, 1994. FCC File No. BALCT-940913KX.[4]

11. In evaluating requests for waiver of the duopoly rule, whether on a permanent or temporary basis, the Commission looks to several factors: (1) the size of the overlap area and the population within that geographic area; (2) the separateness of the markets within which the two stations are located; (3) the diversity of voices available to the population residing within the overlap area; (4) the resulting concentration of economic power; (5) the independence of the stations' operations; and (6) any public interest benefits emanating from the proposed combination. *See, e.g., Iowa State University Broadcasting Corporation*, 9 FCC Rcd 461 *[74 RR 2d 809]* (1993) (permanent waiver); *Citadel Communications Co., Ltd.*, 5 FCC Rcd 3842 *[67 RR 2d 1605]* (1990) (temporary waiver). Although some of the elements present in this case deviate in part from past waiver cases, given the bankrupt status of Debtor and its KSTS(TV), we find, for the reasons discussed below, that a temporary, twelve-month waiver of the duopoly rule is warranted.

12. Preliminarily, we note that the degree of overlap of the Grade B contours of the two television stations in this case exceeds that existing in most of our past duopoly waiver cases. Here, the predicted overlap area of the two stations, according to Telemundo's engineering exhibit, indicates that the overlap area of 7,007 square kilometers, inhabited by 1.8 million persons, represents 51 percent of the geographic area and 91.5 percent of the population within the Grade B contour of KSMS-TV and 50 percent of the geographic area and 31.3 percent of the population within the Grade B contour of KSTS(TV). However, as the Commission noted in *Family Television Corp.*, 59 RR 2d 1344, 1348 (1986), the size of the proposed overlap has been of "more critical concern" in cases involving requests for a permanent waiver of our rules and we are not constrained from granting a temporary waiver where circumstances "will not significantly frustrate the policies underlying the multiple ownership rules." Moreover, we have long been guided by the directive that we entertain waiver requests as a "safety valve procedure for consideration of an application for exemption based on special circumstances." *WAIT Radio v. FCC*, 418 F2d 1153, 1157 *[16 RR 2d 2107]* (DC Cir 1969). In this case, we believe that furtherance of the Plan and the vitalization of the Reorganized Telemundo would be compatible with the diversity and economic competition policies the duopoly rule is designed to promote. Thus, the magnitude of the temporary overlap in this case is not fatal to Debtor's waiver request, and our grant of that request provides the requisite "safety valve" under these "special circumstances" of a Debtor emerging from Chapter 11. *See Channel 64 Joint Venture, Debtor in Possession*, 3 FCC Rcd 900 *[64 RR 2d 935]* (1988), (one-year temporary waiver of duopoly granted to party holding a 5.7% to 12.1% attributable interest in one Cincinnati television station and proposing to hold an 8.5% to 12.6% attributable interest in another Cincinnati television station through a bankruptcy organization).

13. Specifically, we are cognizant of our obligation under the public interest mandate to consider the national policy underlying other federal laws, such as the bankruptcy laws pertinent here. *See LaRose v. FCC*, 494 F2d 1145, 1146 *[29 RR 2d 1339]* n.2 (DC Cir 1974). As the Commission has noted in a previous case, the objectives underlying the bankruptcy law are three-fold: equality of distribution among creditors, a fresh start for debtors, and the efficient and economical administration of cases. *Fox Television Stations, Inc.*, 8 FCC Rcd 5341, 5343-44 *[73 RR 2d 697] recon. denied*, 8 FCC Rcd 8744 (1993), *appeal pending sub nom. Metropolitan Council of NAACP Branches v. FCC*, Case No. 93-1471 (DC Cir July 26, 1993) (*citing Report of the Commission on the Bankruptcy Laws of the United States*, H.R. Doc. No. 93-137, 93d Cong., 1st Sess., Pts. I and II, chapter 3 (1973)); *see also Channel 33, Inc.*, 4 FCC Rcd 7674, 7680 *[64 RR 2d 1705]* (1988) (waiver of duopoly rule "premised largely on accommodating policies underlying the bankruptcy laws and the protection of innocent creditors. . ."). We believe that we can accommodate those bankruptcy policies here without countervailing harm to the policies supporting our own multiple ownership rules: by permitting implementation of the Plan so carefully crafted by the creditors; by permitting Debtor to emerge from bankruptcy with only half of its former debt and decreased interest rates on remaining debt; and by facilitating effectuation of the Plan by acting expeditiously in granting waiver of our rules.[5]

14. Equally important to our determination is the fact that grant of the temporary waiver request would promote the Commission's enduring goal of advancing diversity via increased minority ownership. *See, e.g., Notice of Proposed Rulemaking* in MM Docket No. 94-149 and 91-140, adopted December 15, 1994

(proposes to increase minority ownership); *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 *[42 RR 2d 1689]* (1978) (established tax certificate and distress sale policies); *Commission Policy Regarding the Advancement of Minority Ownership in Broadcasting*, 92 FCC 2d 849 *[52 RR 2d 1301]* (1982), *proceeding terminated*, 99 FCC 2d 1249 *[57 RR 2d 855]* (1985) (clarified tax certificate policy and extended policy to cable). The Plan, which can be consummated only if we grant this temporary waiver, provides not only for ownership of approximately 16% of Telemundo by Bastion Capital, whose controlling principals and 20-percent equity owners are Guillermo Bron and Mr. Villanueva, both Hispanic Americans, but for management of the reorganized company by Joaquin Blaya, an Hispanic American slated to serve as Reorganized Telemundo's president and chief executive officer.

15. We also find that grant of a temporary waiver would not disserve the policies of diversity and economic competition which undergird our duopoly rule. As to the separateness of the markets served by the two television stations, we note that KSMS-TV, Monterey, is located in the Salinas-Monterey area of dominant influence ("ADI"), one of four full-service commercial television stations licensed to that market, the 103rd largest in the country. In contrast, KSTS(TV), San Jose, is located in the San Francisco-Oakland-San Jose ADI, the nation's fifth largest market, and is one of 17 full-service, commercial television stations licensed to that market.

16. With regard to the diversity of voices present in the temporary overlap area, Debtor's engineering exhibit indicates that there are 28 television stations providing Grade B service to all or part of the Grade B overlap area, yielding a multitude of voices, including three affiliates each of the four networks, ABC, CBS, NBC, and Fox, one Home Shopping Network affiliate, one Univision affiliate, eight independents, and six noncommercial stations.

17. Finally, Debtor contends that because the stations are not direct competitors, the proposed temporary overlap will not "diminish" the economic competition in the market. To assuage any concern that KSMS-TV and KSTS(TV), which are affiliates of rival Spanish-language networks, Univision and Telemundo, respectively, will not engage in robust competition, Mr. Villanueva has personally pledged to operate KSMS-TV "wholly independently" of the Debtor's KSTS(TV) by recusing himself "from any participation in the management or operation" of KSTS(TV). We shall rely on that representation as a means for maintaining the independence of the stations, the fifth factor in evaluating a waiver request. To that end, we specifically will require Mr. Villanueva to refrain from all discussions and involvement regarding the Telemundo network, as well as KSTS(TV), with any Bastion Capital or Telemundo officer, director, as well as any employee with access to information pertinent to those subjects, until the station is sold. In sum, we find that grant of a temporary, twelve-month, waiver of the duopoly rule, under the circumstances and based on the representations made herein, will inure to the public interest.

**Analysis of the cross-interest policy**

18. Apollo Advisors, L.P. ("Apollo Advisors") is the managing general partner of AIF II, L.P., one of two members of TLMD II, L.L.C ("TLMD"). Accordingly, TLMD's 15.5% stock interest in Reorganized Telemundo is deemed attributable to Apollo, as well as to Leon Black and John J. Hannan, proposed board members of Reorganized Telemundo who are also principals of the general partner of Apollo Advisors.[6] Through an investment fund it manages, Apollo Advisors has, via the holdings of Astrum International Corporation ("Astrum"), a 20 percent, nonvoting interest in Sandino Telecasters, Inc., the permittee of KZKI(TV), San Bernardino, California. That interest, according to the applicants, was acquired as "an incidental asset" of Astrum's predecessor corporation pursuant to a Chapter 11 reorganization resulting in a debt-to-equity conversion. While the nonvoting interest in the licensee of that station, currently operating pursuant to program test authority,[7] is not attributable to Apollo for purposes of the Commission's multiple ownership rules, that interest does implicate our cross-interest policy in that Apollo holds an attributable interest in Reorganized Telemundo's KVEA(TV), Corona. Both KZKI(TV) and KVEA(TV) are located in the Los Angeles ADI.

19. The cross-interest policy was developed to scrutinize relationships not proscribed by the multiple ownership rules but which nevertheless triggered Commission concerns for full competition and diversity of viewpoint. *See Minnesota Broadcasting Corp.*, 13 FCC 672 (1949); *United Community Enterprises, Inc.*, 37 FCC 2d 953 *[25 RR 2d 745]* (Rev Bd 1972). Although the policy is currently the subject of a rulemaking proceeding, *Notice of Inquiry*, 2 FCC Rcd 3699 (1987), *Further Notice of Inquiry/ Notice of Proposed Rulemaking*, 4 FCC Rcd 2035 (1989), *Further Notice of Proposed Rulemaking*, FCC 94-150, adopted December 15, 1994, until modified, we shall abide by our case-by-case approach for addressing cross-

interest situations.

20. The applicants set forth several reasons, which collectively support our finding that Apollo's interest in KVEA(TV) and its concurrent potential influence over KZKI(TV), via its nonvoting interest, are unlikely to diminish arm's length competition or diversity, the governing concerns of the cross-interest policy. First, the level of Apollo's cross interests in KZKI(TV) and KVEA(TV) are consistent with that permitted by the Commission in past cases. *E.g., Cleveland Television Corp.*, 91 FCC 2d 1129 *[52 RR 2d 581]* (Rev Bd), *rev. denied*, FCC 83-235 (May 18, 1983), *aff'd sub nom. Cleveland Television Corp. v. FCC*, 732 F2d 962 *[55 RR 2d 1411]* (DC Cir 1984) (nearly sole ownership of the licensee of an AM/FM combination and a one-third nonattributable interest in the licensee of a television station in the same market); *Metromedia Broadcasting Corp.*, 1 FCC Rcd 1022 *[61 RR 2d 737]* (1986) (attributable 20% interest in the licensee of one television station and an nonattributable 17.39% voting interest in a single-majority-shareholder-owned licensee of another television station in the same market).

21. Second, the Los Angeles ADI, the nation's second largest, is a highly competitive broadcast market, sustaining 21 full-service television stations and 79 AM and FM radio stations, all owned by 80 separate "voices." Moreover, KZKI(TV), an independent English-language television station, and KVEA(TV), a Telemundo-affiliated Spanish-language television station, do not compete directly for viewers or advertisers in the Los Angeles market.

22. Third, it is represented that the two stations will continue to be operated separately "in all respects," including programming, sales and employment. Nor will Reorganized Telemundo or its Apollo-affiliated directors Black and Hannan, according to the applicants, have any "direct or indirect material involvement" in the management or operation of KZKI(TV).

23. Finally, the applicants note that a contract for sale of KZKI(TV) has been executed and an application for assignment of the permit soon will be filed with the Commission. In view of the foregoing, we conclude that the objectives supporting the cross-interest policy are not threatened by Apollo's interests in KZKI(TV) and KVEA(TV).

**Exemption from attribution of Apollo principal**

24. Marc Rowan is a vice president of Apollo Capital Management, Inc. ("Apollo Capital"), the general partner of Apollo Advisors, which serves as the managing general partner of AIF, one of the two members of TLMD, a proposed 15.5 percent voting stockholder in Reorganized Telemundo. Rowan is also vice president of Lion Capital Management, Inc. ("Lion Capital"), an affiliate of Apollo Capital and the parent company of Lion Advisors, L.P. ("Lion Advisors"), which serves as the investment manager and attorney-in-fact of Artemis America, L.L.C. ("Artemis"), the other member of TLMD. Additionally, Rowan is a limited partner of Apollo Advisors and Lion Advisors. Despite the applicants' contention to the contrary, by virtue of these positional and ownership interests, Rowan is deemed to have an attributable interest, through TLMD, in Reorganized Telemundo. This interest conflicts with Rowan's seat on the board of directors of New World Communications Group, Incorporated ("New World"), the parent of the licensees of eleven television stations, one of which is KNSD(TV), San Diego.[8] Reorganized Telemundo will be the parent company of the licensees of seven television stations, one being KVEA(TV), Corona, whose Grade B contour overlaps with that of KNSD(TV). Rowan's dual positional interests, therefore, potentially violate the Commission's twelve-station rule, Section 73.3555(e), and the duopoly rule, Section 73.3555(b).

25. Reorganized Telemundo requests, pursuant to Note 2(h) of Section 73.3555, that Rowan be relieved of attribution of the Telemundo stations, thereby avoiding violations of the Commission's rules. To that end, the applicants indicate that Rowan's responsibilities at Apollo and Lion, whose investments range from furniture and luggage to footwear, apparel and supermarkets, as well as communications, relate to investment management. Accordingly, Rowan pledges to recuse himself "from any matters that may pertain, directly or indirectly, to Telemundo." Rowan also represents that he will have not, "and will have no ability to, exercise authority or influence over Telemundo, and will not participate in any discussion, policy-making role, or oversight function related in any manner to Telemundo or any of the stations licensed to it." Specifically, it is represented that Apollo Capital and Lion Capital will implement mechanisms to insure Rowan's recusal: matters involving Reorganized Telemundo will be discussed separately at all meetings, allowing ample opportunity for Rowan to refrain from participation; the financial reports for Apollo Capital and Lion Capital will be sufficiently aggregated so that Telemundo's performance figures are not separately displayed; reports containing any discrete information regarding Reorganized Telemundo

will be redacted before distribution to Rowan; and all Apollo Capital and Lion Capital officers and directors, as well as any employee with access to Reorganized Telemundo will be informed at least quarterly of Rowan's recusal.

26. The Commission recently recognized director recusal from a multi-faceted corporation's television business as a predicate for relief form attribution. *Craig O. McCaw*, 9 FCC Rcd 5836, 5915-16 *[75 RR 2d 1245]* (1994); *Viacom, Inc.*, 9 FCC Rcd 1577, 1579 *[74 RR 2d 1323]* (1994). While we make no determination as to whether Apollo and Lion qualify as multi-faceted companies, we believe that their apparently singular business as investment companies can be divided into discrete investment activities. We find, therefore, that the diversified nature of Apollo's and Lion's investments lends itself to our granting "narrow" relief to Rowan, that is, not allowing disclaimer of his positional interests "as a matter of course." *Attribution of Ownership Interests*, 97 FCC 2d 997, 1025 *[55 RR 2d 1465]* (1984). Further, the recusal procedures in place at Apollo Capital and Lion Capital insure that Rowan's recusal will be *bona fide*. *See Craig O. McCaw*, 9 FCC Rcd at 5916. We caution Rowan that he must strictly observe his pledge to recuse himself completely from all Reorganized Telemundo matters, either those relating to the network or to the owned and operated television stations. We require that such recusal also applies to all Apollo and/or Lion investment activities that involve and/or implicate any of Reorganized Telemundo's businesses. Based on the applicants' representations and so long as these proscriptions are followed, we deem Rowan to hold a noncognizable interest in Reorganized Telemundo.

**Conclusion**

27. In conclusion, we find the applicants qualified to be licensees in all other respects. We have reviewed the applications and find that grant of the transfer of control of the licensees from Debtor to Reorganized Telemundo will serve the public interest, convenience and necessity.

28. Accordingly, IT IS ORDERED, that the applications for transfer of control of the licensees cited in the caption above, from Telemundo Group, Inc., Debtor in Possession to Telemundo Group, Inc., ARE GRANTED.

29. IT IS FURTHER ORDERED, that the request for permanent waiver of the one-to-a-market rule, Section 73.3555(c) of the Commission's rules, to permit common ownership by Daniel D. Villanueva of KCTQ(AM), Thousand Oaks, California, and KVEA(TV), Corona, California, IS GRANTED.

30. IT IS FURTHER ORDERED, that the request for temporary waiver of the television duopoly rule, Section 73.3555(b) of the Commission's rules, to permit common ownership by Daniel D. Villanueva of television stations KSMS-TV, Monterey, California, and KSTS(TV), San Jose, California, IS GRANTED, for a period not to exceed twelve months from the date of consummation of the instant transaction.

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**End Notes**

[1]. Earlier, the applicants had proposed that 24.5% of the voting common stock of Reorganized Telemundo would be owned by TLMD Partners II, L.L.C. ("TLMD"), an entity composed ultimately of members John J. Hannan and Michael D. Weiner, which would receive the stock pursuant to claims received from AIF II, L.P. ("AIF") and Artemis America III, L.L.C. ("Artemis"). However, in amendments filed on December 19 and 20, 1994, the applicants represent that AIF and Artemis will comprise the complete membership of TLMD, in lieu of intervening members TLMD partners IA, L.L.C. and TLMD partners IB, L.L.C. and of ultimate members Hannan and Weiner. And TLMD will reduce its proposed interest in Reorganized Telemundo to approximately 15.5% of that company's stock. The remaining 9% stock TLMD was to own will be acquired for cash separately by Bastion Capital and Leon Black, the specific percentages of which are not yet known. As stated in the amendments, Bastion Capital will acquire up to 7% of that 9% TLMD stock interest, which, when added to its initial proposed interest of 6.8% to 9.4%, will total up to 16.6%. Black, who was not originally scheduled to acquire an interest, will acquire between 2% and 8% of that 9% TLMD stock interest.

[2]. The initial, bankruptcy court-approved board members of Reorganized Telemundo, all U.S. citizens, were designated by Debtor's current management (Joaquin F. Blaya), Reliance Insurance Company (George E. Bello and Saul P. Steinberg), the junior creditors (Alan Kolod), and the senior creditors (John J. Hannan and Bruce H. Spector

for TLMD Partners II, L.L.C., John Juran and Guillermo Bron for Bastion Capital Fund, L.P., and Leon Black for himself).

3. As Debtor contends, we note that the bankrupt status of KVEA(TV) entitles Debtor to qualify for a presumptive waiver on a second ground, the "failed station" standard, as detailed in Second Report and Order, 4 FCC Rcd at 1752-53.

4 An informal objection has been filed against that application.

5. Here, the Plan, according to Debtor, must be consummated on or before December 31, 1994 in order to implement a litigation settlement agreement that is integral to the viability of the Plan. The settlement agreement will discharge a proof of claim filed with bankruptcy court against Debtor for approximately $158 million in connection with a New York court action. See Plan at 1.

6. Black is president and Hannan is vice president and director of Apollo Capital Management, Inc., the general partner of Apollo Advisors.

7. An application seeking license to cover the construction permit for KZKI(TV) is pending before the Commission. FCC File No. BLCT-940124KF.

8. While Rowan personally is deemed to hold an attributable interest in New World, we do not find that interest attributable to Apollo or Lion or to any of its affiliates. We base this finding on the applicants' representation in their December 19, 1994 amendment that Rowan acceded to the board of New World by a vote of the so-called "Type 2" holders of New World common stock, which are entitled to select two New World directors. Those Type 2 holders are: Kodak Retirement Income Plan Trust Fund, Fidelity Capital & Income Fund, Fidelity Equity-Income Fund, Fidelity Magellan Fund, TCW Special Credits Funds II, IIb and IIIb, Weyerhaeuser Company Master Pension Trust, TCW Special Credits Trust, Inland Steel Industries Pension Trust, The Common Fund for Bond Investments, TCW Special Credits Trust IIIb, and the Delaware State Employees' Retirement Fund. Apollo is ineligible to vote, nominate or designate a director because it holds New World preferred stock and warrants, not common stock. Only if Apollo were to exercise its warrants would it be a Type 2 holder. Until Apollo converts its warrants, we shall not deem Rowan's directorate at New World to be attributable to Apollo.

*** Slip Sheet ***

Thomson StreetEvents

# Conference Call Transcript

## DTV - DIRECTV Latin America Investor Day

**Event Date/Time: May. 24. 2007 / 7:00AM MT**

## CORPORATE PARTICIPANTS

**Jon Rubin**
*DirecTV - VP - IR*

**Chase Carey**
*DirecTV - President, CEO*

**Bruce Churchill**
*DirecTV - President - DirecTV Latin America*

**Luiz Eduardo Baptista**
*DirecTV - General Manager - SKY Brazil*

**Jacopo Bracco**
*DirecTV - SVP & General Manager - DirecTV PanAmericana*

**Alex Penna**
*DirecTV - General Manager - Sky Mexico*

## PRESENTATION

**Jon Rubin** - *DirecTV - VP - IR*

Good morning, everyone. I'd like to get started. I'm Jon Rubin, Vice President Investor Relations for DirecTV, and I'd like to welcome everyone to DirecTV Latin America's investor day.

Before getting started, just a couple of quick housekeeping items. First, hopefully everyone's gotten a hard copy of the presentation.

And you'll see in the agenda we've got quite a few presentations to get through this morning, so we'd like to ask everybody to hold off on their questions until the end and we have plenty of time reserved at the end of the morning to answer all your questions.

And for the media, we have a separate meeting scheduled after the general Q&A in the State Room, right down the hall, probably around noon. So we'd ask the media to join us there with all the presenting executives for a separate Q&A session at that time.

As is customary, a couple of slides I've got to get through here quickly.

First, because we will be providing forward-looking information, we provide our cautionary statement for Safe Harbor purposes. I'm sure everyone's familiar with this.

And the second slide, in accordance with SEC's Regulation G, we do reconcile all the non-GAAP financial metrics in the back of the presentation.

Finally, I just want to remind everyone that we are webcasting this live and we are keeping an archived copy on our website at www.directv.com.

So with that, I am pleased to introduce Chase Carey.

**Chase Carey** - *DirecTV - President, CEO*

Thanks, Jon. Good morning, everybody. Thank you for coming out this morning.

For the last three-plus years, really since almost the first day that, certainly at least for me, I stepped into this job we've talked about Latin America, it's sort of our hidden jewel, as we sort of referred to it fairly cryptically, quickly.

And I think if there's one hope today it's that we shine some light on that jewel and in many ways give you a sense of why we've been so excited about the potential for that business.

Now, we haven't waited three years just because we wanted to continue to hide it. We really waited till now, and I think now is the right time for two reasons, to try and provide more visibility to our Latin American story.

First is that we really had to merge the Sky and DirecTV platforms in Latin America into one. Those two platforms had competed with each other since the mid 1990s and clearly struggled in competing with each other.

And it really wasn't until 2004, late 2004 when we signed a merger agreement and the last couple of years where we moved forward with that merger agreement that we were able to begin to capture the value and the potential of these businesses.

And in many ways, Latin America, much like many countries, the UK, France, Spain, Italy, were really good territories but territories that weren't large enough to support successfully two platforms.

So when you merge these two platforms together, you end up with a merged business, with a single business and a territory that is more than large enough to really successfully build that satellite platform.

The second reason was we wanted to get these businesses far enough along that the value was apparent in their current operations. That doesn't mean these businesses are close to mature. It's really just the opposite.

But we wanted to be able to put a set of financials and a set of current results up there that really speak to the potential of these businesses.

And I think you'll see already these businesses have moved to a place where they're generating profits and cash flow that really speak to the value and the potential.

Though again, we really are at the early stages of developing these businesses. Take an example like Brazil.

We only got the merger approved locally in late 2006 and it's only this summer we're really finishing the operational merger of those two platforms.

So that's the reason we didn't - we basically waited till now. And I've got a number of colleagues here that are going to really give you a sense of the business, but I want to take a minute and just sort of step back and from 10,000 feet really give you a sense of why we're excited about Latin America.

First, these are great markets. They have real size. They have over 500 million people.

They have as many TV households essentially as the U.S. does. 100 million-plus TV households. You've got markets, people in these markets that love and value television.

Because of their early stage growth cycle you -- where they are in the growth process, you only have about 20% of the market today that has pay TV, so there's a lot of growth left.

That growth will be enhanced into these markets, growing wealth and the standard of living.

Yes, these are certainly countries that have a degree of volatility, but when you look at countries and nations like Brazil and Mexico and Argentina and Columbia, they're really at the top of an awful lot of lists of where companies order countries with real growth potential and that'll get stronger and stronger as the world develops.

A second reason we're excited about these businesses is we're the clear leader in pay television in those markets.

And it's not just the size, it's not just because we have over four million subscribers there. It's because we provide the best television experience there.

We're the premium brand with the best in programming, the best in technology and the best in service. Customers subscribe to us, get a digital quality service, they get new technologies today like DVRs, they get unique content, and really other features that distinguish us from those we compete with.

Clearly, when you look at competition, our position in this market is enhanced by the fact that we face a more favorable competitive environment than we do in a market like the U.S.

As I said a minute ago, we're really the only significant satellite platform in the market. The cable business has really struggled for a number of years.

It is really at the early stages of its transition to digital. We do expect cable will get stronger as entities like Telefonica and Telmex invest in targeted cable systems.

However, we've really got a leadership position in terms of - in terms of the market share we've built and really the satellite infrastructure, the low cost, flexible nature of that infrastructure gives us real long term advantages to compete against the cable business as we go forward.

And if you look around the world, it is generally true that where satellite has gotten well established ahead of cable, it's made it a pretty tough road for cable to come in and compete against that entrenched, that established satellite business given the competitive strengths and the economic strengths satellite has when competing with cable.

And I think in many ways, as you look at how a market like this develops, you may find wireless communications, things like 3G, cell phones and the like, play a much more central role to how this whole market shakes out and challenges to the wired players.

So from a competitive perspective, we feel very good about the position we have in the market.

And finally, probably second to none, you look at the economics of this business and they'd really the be the envy of subscription platforms around the world. You've got strong subscriber growth, good ARPUs, low sack and churn.

Our margins are already strong, they're going to get -- they'll get stronger as we take advantage of both our size in the market as well as take advantage of piggybacking on our size and scale in the U.S. market.

Our margins will also further improve because the fixed cost in this market essentially is satellite cost, the broadcast operations. The overhead costs are a larger part of our overall cost structure and therefore as revenue grows, we get leverage through that.

Now, while our -- these markets really have an array of financial strengths that I think will be apparent as you listen to and go through the story here, yes, they don't have an ARPU that is at the level of the U.S., although it's a very good, solid ARPU, but if you really take that ARPU and put it against the lower cost structure, they actually have -- we have returns, or IRRs, in these subscribers that are every bit as good as the U.S.

Now, ultimately you look at all those economics and I think probably the best and probably the true measure of the strength and value of a business ultimately is its cash flow.

And I think that story is one that will clearly come through.

This year our Mexican platform, which is the most advanced of our Latin American platforms, will generate over $200 million in cash before interest and taxes.

Brazilian and PanAmericana businesses will generate between $150 million and $200 million in cash before interest and taxes in 2007. And that's an amount that will more than double in the next couple of years.

So when you look at what these businesses are generating and will really more importantly grow to generate over a very short timeframe, I think it really speaks to why we're excited and believe these businesses will be an increasingly important part of the overall DirecTV story.

So I do hope the morning gives you a better sense of these businesses and I know we'll try and answer whatever questions you have at the end. But I do thank you for being here.

And with that, really want to turn it over to Bruce Churchill, the president of DirecTV Latin America. Thank you.

**Bruce Churchill** - *DirecTV - President - DirecTV Latin America*

Thanks, Chase, and thank you everybody here for joining us this morning.

Quickly, the agenda this morning is I'll give you a brief overview of how we got to where we are today, give you a little more detail around, color around what Chase discussed just now.

Then each of the general managers of the three platforms will do a presentation on their businesses. Luiz Eduardo Baptista da Rocha from Brazil, Jacopo Bracco runs our PanAmericana platform, and Alex Penna from Sky Mexico.

We'll also take a short break between Jacopo and Alex's presentations.

And I'll come back on and talk a little bit about sort of financially where we see the businesses sort of ending up this year as well as going forward.

Also, for those of you that are interested, we have a few other members of the DirecTV Latin America management on hand. [Keith Suchy], our CFO, is with us today.

[Michael Hartman], our General Counsel, who also oversees all our government relations, is here.

And [Rick Mirada], our Vice President of Programming. So to the extent anybody has specific questions on those, they'll also be hanging around today.

So let me get right into it.

We have obviously a presence throughout the region. We are the largest pay TV operator in Latin America.

We're the sixth largest pay TV operator outside the United States. And we're basically tied roughly with Sky Italia for that position.

As Chase mentioned, it's a market that we think has very attractive demographics and growth prospects.

It's already a market of about 500 million people. There are about 100 million television households in the market, which is roughly the same number as there are in the United States today.

However, pay TV penetration is obviously much lower. It's more in the range of 20%. And of that, we have about a 20% market share.

Our view on these markets is that they're positioned favorably economically, they're positioned to grow, so there'll be growing middle class for these -- in these markets.

And those are the kinds of people that are our kind of customers. And so we are very optimistic about the potential of the business.

It's also, just for purposes of comparison, a market where in the broadband side cable is really just getting going.

It has about less than a 25% market share of the broadband market and it's really a market that has been historically dominated by large telco companies, many of which are either national telco companies or former national telco companies.

DirecTV Latin America today is really the result of, I would say, three steps.

The first one was that we had to negotiate and complete the mergers between the Sky platforms and the DirecTV Latin America platforms.

Sky was a partnership between News Corp, Liberty, Televisa, and Globo that operated in various structures around the region, and then DirecTV was -- with DirecTV we had a minority partner with a company called Darlene Investments.